CHAPTER 12: SPECIAL PROPERTY TYPES [7 CFR 3560.69 and 7 CFR 3560.70]

12.1 INTRODUCTION

Congregate housing, group homes, manufactured homes, and cooperative housing are special property types that are eligible for Section 515 loans. Such loans are processed and underwritten through the initial application stage at the state loan processing office. Initial applications that the Loan Originator believes should move on to the final application stage are sent to the National Office for their review. If the National Office concurs, the loan applicant is invited to submit a final application. Processing of the loan application is then resumed by the Loan Originator; the final application will only be sent back to the National Office for review if the National Office imposes certain restrictions on the loan making process.

Most of the loan processing requirements for special property types are the same as for other multi-family type loans. However, there are some differences in requirements and procedures that affect the processing and underwriting of loan applications to finance these properties. This chapter covers those differences for each of these special property types.

Loans on the special property types described in this chapter are subject to the same environmental requirements as standard Section 515 multi-family projects. The loan docket submitted for National Office review must include the completed environmental review. For additional guidance on environmental reviews, see Chapter 3 and RD Instruction 1940-G, Environmental Program.

SECTION 1: CONGREGATE HOUSING [7 CFR 3560.69]

12.2 OVERVIEW

Congregate housing is residential housing for elderly households or persons with disabilities, consisting of private apartments and central dining facilities and a number of preestablished services such as meals and housekeeping. Nursing services cannot be provided to tenants.

Because of the special services provided to elderly households and person with disabilities, the Agency has established the following additional requirements and standards for these projects that do not apply to other multi-family housing projects:

- Additional design requirements for congregate housing to accommodate the elderly and persons with disabilities.
- In the underwriting that the Loan Originator must conduct, an additional element of analysis of the need and demand for the services that are to be provided to the tenants.
- Documentation by the loan applicant of experience in congregate housing or similar type facilities (such as assisted living). If this is not possible, the Agency requires them to hire someone with experience.

Congregate housing projects compete for funding and are processed and underwritten in each State together with other Section 515 proposals and loan applications. However, due to the specialized nature of such housing, States will solicit the advice and input of the National Office as soon as they receive the initial application for a congregate housing project.

The remainder of this section describes the requirements that apply to congregate housing and the procedures loan processing staff must follow in processing and approving a congregate housing loan application.

12.3 RESTRICTIONS ON USE OF LOAN FUNDS

Congregate housing must comply with the eligible and prohibited loan expenses identified in Chapter 4 in **Attachments 4-A** and **4-B**. Specific costs which are prohibited in congregate projects are:

- Specialized equipment for training and therapy;
- Items which do not become affixed to the real estate security; and
- Operating capital for a central dining facility.

12.4 USE OF OPERATING CAPITAL

Borrowers may use the initial operating capital to purchase necessary items which do not become affixed to the real estate security, such as special portable equipment, furnishings, kitchen bars, dinnerware, eating utensils, movable tables and chairs, etc.

12.5 ELIGIBILITY REQUIREMENTS

Congregate projects must meet the eligibility requirements of 7 CFR 3560.55 as described in Chapter 5. There are several additional requirements which also must be met as described below.

A. Eligible Loan Applicants

Loan applicants for congregate housing must:

- Meet the requirements of 7 CFR 3560.55;
- Review Attachment 12-A, Management of Congregate Housing and Group Homes prior to submitting an initial application and document that they have met the provisions of the attachment; and
- Have experience in managing congregate housing or show evidence of acquiring
 experienced management. Operation of congregate housing requires special
 management expertise and skills beyond those needed to manage a typical multifamily housing project. The success or failure of a project will depend upon
 management's marketing skills and ability to deliver services effectively. Counseling

tenants and tenant selection also add a unique dimension to management responsibilities.

B. Eligible Tenants

Eligible tenants for congregate housing must meet program income requirements, be at least 62 years old or disabled, and be a U.S. citizen or qualified alien.

C. Eligible Projects

Eligible projects are those that are located in designated places, which meet the basic rural rental housing project requirements of 7 CFR 3560, subpart B, and which meet the supplemental requirements of 7 CFR 3565.69 for congregate housing. Congregate housing must also meet all applicable federal, State and local laws, statutes, code and/or ordinances pertaining to this type of housing and the services provided.

12.6 **APPLICATION REQUIREMENTS**

The package of services which must be offered to the tenants in a congregate housing project is what distinguishes congregate projects from elderly projects. Consequently, the main difference in application requirements is the additional information which the loan applicant must provide to describe the planned services.

As part of the initial loan application, the applicant must submit a separate service plan and budget detailing the costs for operation and maintenance of the services and describing delivery of services. This plan must include a letter of commitment from each service provider detailing its ability and willingness to provide services. Alternative service providers must be identified in the event a service provider is unable to provide the services in the future. Paragraph 12.8, Tenant Support Services, provides detailed guidance on services.

12.7 **DESIGN REQUIREMENTS**

Congregate housing must be planned and developed in accordance with RD Instruction 1924-A, Planning and Performing Construction and Other Development and RD Instruction 1924-C, Planning and Performing Site Development Work. The Loan Originator must require any applicant with no prior experience to obtain assistance from organizations or individuals who have experience in planning and designing congregate housing or similar assisted care housing. Exhibit 12-1 details the additional design criteria which congregate housing must meet.

Exhibit 12-1

Additional Design Requirements for Congregate Housing Projects

- <u>Location</u>. Congregate housing must be located as close to services and shopping as possible, considering the availability of suitable residential sites. The time it takes to reach services is important, especially when considering potential medical emergencies.
- <u>Design must accommodate support services</u>. Facilities needed to accommodate support services must be fully explained and justified by the market feasibility documentation and must be designed in accordance with acceptable practices. Specific design guidelines are provided in Chapter 1 of Guide 2 of RD Instruction 1924-A, Planning and Performing Construction and Other Development. These facilities may be larger than necessary to meet the tenants' requirements if they are needed in the community and other sources of funds are available to pay a pro rata share of the cost.
- Accommodations. The design must accommodate the needs of the individuals the housing
 is designed to serve. The walkways and corridors between living units and the support
 service facilities must be safe, comfortable, minimal in length, include handrails, and must
 comply with Uniform Federal Accessibility Standards(UFAS). In addition to UFAS, the
 Fair Housing Act Accessibility Guidelines, the Americans with Disabilities Act
 Accessibility Guidelines, and any State or local requirements must also be complied with
- <u>Separate service and delivery areas</u>. Areas used by the tenants must be separated as much as possible from areas needed for delivery of food and supplies and other building services. Interior spaces and finish materials must be residential in character and designed to help prevent tenants from becoming disoriented within the building(s).
- <u>Emergency lighting</u>. Emergency lighting must be provided in every public space, corridor, stairway, elevator and other means of egress.
- <u>Accessibility</u>. The entrances to all living units must be on a route accessible to people with disabilities. Living units accessible only via exterior steps or interior stairs are not acceptable.
- <u>Living unit specifications</u>. The size of rooms and spaces in the living units must be comparable to units provided in other housing for the elderly. Kitchen facilities must be provided in all living units and include, as a minimum, a cooktop, oven, sink, refrigerator and a food preparation surface.
- <u>Emergency call systems</u>. The bathroom and one bedroom in each living unit, and any public toilet rooms, must be furnished with an emergency call system that is appropriate for the size and staffing of the housing facility.

12.8 TENANT SUPPORT SERVICES

Tenant support services must be offered to assist tenants in living independently. Such services must be reasonably priced to ensure affordability and continued use by very low- and low-income tenants. Loan applicants must meet the requirements of **Attachment 12-B**, Support Services for Congregate Housing and Group Homes, in planning services.

Services may not be of a nature that would be provided by a nursing home or special care facility. Tenants requiring additional health or medical services beyond the scope of congregate services must acquire them or provide for them within their own financial, familial, or social resources.

A. Services Plan

The loan applicant must submit a services plan with the initial application. The Loan Originator must review the services plan and confirm that the minimum services detailed in B below are to be provided and the plan specifies the following:

- The services to be provided;
- The frequency of services to be provided;
- The entity or organization providing the services, including a letter of commitment from each service provider detailing their ability and willingness to provide services. The Loan Originator must confirm that this letter identifies the type, scope, cost, term and any licensing requirements of services that will be provided to the project. If a local agency on aging will provide a service, the commitment can be contingent on the local agency maintaining its level of funding;
- Alternative service providers, in the event the original provider is unable to furnish services in the future. Alternative sources must be documented even if the applicant plans to use on-site personnel for services. The availability of services from alternative sources enhances a proposal's feasibility since long-term services are crucial to the success of congregate housing;
- The procedures for advising tenants of the availability of services; and
- The staff necessary to provide the services.

B. Minimum Services

Loan applicants may offer a wide variety of services; however, the services detailed below must be offered as a minimum

1. Meals

Since some tenants will depend on the meal service for sustenance, at least one cooked meal a day, seven days a week, must be provided by the primary meal provider or an alternate source. The following conditions apply to meals:

- To ensure that the meals are wholesome and meet the needs of individual tenants, a professionally trained dietitian or nutritionist must be involved in planning the menus.
- The feasibility of sustained meal service may depend on the number of people who elect to use it. Congregate housing borrowers should actively solicit tenant participation in the meal service if the economic feasibility of the service depends on user charges.
- If the entity that operates the service is eligible to accept food stamps under the regulations of the Food and Nutrition Service (FNS) of the United States Department

of Agriculture (USDA), the entity must be authorized by FNS to accept food stamps from tenants for the purchase of meals.

2. Transportation

Transportation must be provided to the project on a fixed schedule based on tenant needs. Public and private transportation sources may be used by loan applicants to develop a dependable and economical method for providing this service. If these sources cannot provide adequate transportation, the applicant must develop a project-sponsored transportation system.

3. Housekeeping

Housekeeping services must be provided to tenants who request assistance in keeping their units clean.

Required Services

- Meals: One cooked meal seven days a week.
- Transportation: On a fixed schedule based on tenant needs
- Housekeeping: To tenants who request assistance in keeping their units clean.
- Personal Services: Upon request, services such as assistance with personal hygiene, nutrition counseling and general health screening.
- Recreational/Social Activities: To the extent possible, any and all of the following services should be provided: Hobby and craft classes, special dinners, a library or book exchange area, games and videos, and wellness and exercise classes.
- Access to Medical Services: Medical services must be available within reasonable proximity and transportation must be provided to tenants who require it.

Light housekeeping tasks, such as dusting, vacuuming, floor washing, and bathroom cleaning, and laundry for bedding generally should be provided on a weekly basis. Heavier tasks, such as oven cleaning, window cleaning, and drapery cleaning, should be provided periodically.

4. Personal Services

Limited nonmedical personal services must be made available to tenants who request them. Personal services can include such items as beautician services, nutrition counseling, and general health screening. They do not include recurring medical assistance such as dispensing medication or medical supervision. Space may be included in the project for a small beauty shop and health screening area. Applicants may want to consider contracting for personal services to assure their continued and dependable availability to tenants.

5. Recreational/Social Activities

Loan applicants are encouraged to offer tenants recreational and social activities such as hobby and craft classes, special dinners, a library or book exchange area, games and videos, and wellness and exercise classes.

6. Access to Medical Services

Tenants must have access to health care providers. Health care services must be available within a reasonable traveling distance for tenants and transportation must be provided to tenants who require it to access medical services.

C. Project Services Coordinator

Loan applicants are encouraged to include as part of their services package a Project Services Coordinator to coordinate the services provided in the project. A Project Services Coordinator is a social service staff person hired by project owners or their management company. The Coordinator is responsible for linking the elderly, especially those who are frail, and residents with disabilities, to the supportive services they need to continue living independently. Such a Coordinator can do much to assist the well-being of the tenants and is an allowable project expense in congregate housing.

D. Service Agreements

As a part of the final application, the applicant must provide a service agreement for each service to be provided, detailing the information contained in the letter of commitment provided with the services plan at initial application. Initial service agreements must be effective for at least one year after the project becomes operational. Subsequent agreements must be effective for at least one year.

12.9 NON-TENANT SERVICES

Nonresidents may be served by project services, such as the meal facility. If a service provider uses the facility to serve non-residents meals, the service provider must sign a lease with the borrower and provide payment sufficient to cover the annual operating expenses, debt service and reserve account payments attributable to the portion of space that is being used for non-tenants. In most cases, this will be a negligible amount that the meal provider can afford to pay. In addition, if this occurs, the kitchen must be metered separately so that the costs of running the kitchen can be identified.

12.10 PROCESSING APPLICATIONS

A. Agency Action

Congregate housing proposals compete for funding with proposals for other rental projects through the NOFA process and are generally processed in the same manner as all other multi-family housing loans. However, the state loan processing office must send to the National Office for their review and concurrence all initial congregate housing applications which the loan processing office feels should move on to the final application stage. Once the National Office concurs, processing is completed at the state loan processing level, unless the National Office imposes some restrictions which they want to review again before final loan approval.

The Loan Originator will include the following information with any loan that is sent to the National Office for their review:

- A summary description of the loan request;
- A copy of the loan docket (initial application information); and
- The State Director's comments and recommendations.

B. Requirements of the Applicant

1. Initial Application Package

When a project proposal for congregate housing ranks high enough to be invited to submit an initial application package, the initial application package sent by the Loan Originator to the loan applicant will contain all of the items that are identified in Exhibits 5-2 and 5-3 of Chapter 5, plus the following information:

- To give the loan applicant a clear understanding of the management and support service requirements for congregate housing:
 - ♦ Attachment 12-A, Management of Congregate Housing and Group Homes; and
 - ♦ Attachment 12-B, Support Services for Congregate Housing and Group Homes.
- Notification to the loan applicant about the requirement to submit with the initial application:
 - ♦ Congregate services charges; and a
 - ♦ Congregate services plan

2. Final Application

The loan applicant must be informed that the following information will be required as part of the final application:

- Service agreements
- Schedule of charges for nonshelter services

12.11 PRELIMINARY MEETING

In addition to all of the items that are identified in Chapter 5 as necessary to cover at the preliminary meeting, the Loan Originator must discuss and encourage the loan applicant for congregate housing financing to take the following steps:

 Carefully read Attachment 12-A, Management of Congregate Housing and Group Homes and Attachment 12-B, Support Services for Congregate Housing and Group Homes so as to fully understand the requirements of the congregate housing commitment.

- Hire an architect experienced in the design of elderly housing with supportive services.
- Include input during the design phase from project management with housing experience to prevent long-term effects of poorly conceived design on project operations.

12.12 UNDERWRITING CONSIDERATIONS

The Loan Originator must underwrite the congregate housing loan using the basic procedures described in Chapters 5 and 6. Because of the special nature of congregate housing, the Loan Originator's underwriting considerations must also evaluate the market for this special type of housing, the adequacy and availability of the support services offered to the tenants, and the quality of the project's management.

A. Market Feasibility Documentation

The Loan Originator must make sure that the market feasibility documentation for a congregate housing project indicates clearly that a market exists for the type of services that are to be offered by the project and that the services being offered are those that are in most demand in the market area.

Market feasibility documentation must address the market demand for meal plans. A congregate housing project's meal plan subscription must be well planned so that dining facilities do not go unused, adversely affecting the project's financial viability.

For additional market feasibility documentation requirements, see Section 3.

B. Reviewing the Services

The services that are offered to the tenants of a congregate housing project are a critical and integral part of the project. It is the services which distinguish congregate housing from other elderly projects. Consequently, the Loan Originator must ascertain that the services meet the minimum Agency requirements and are:

- Needed and desired in the market;
- Affordable to the tenants; and
- Available for the foreseeable future.

In reviewing the budget for the services plan, the Loan Originator must look at the costs and make sure that they are not excessive. If the service costs are not affordable to the tenants or in excess of what is comparable in the market, they must be reduced. The loan applicant should be contacted to discuss other options such as community services or volunteers. If no other options are available and costs cannot be reduced, the project must be rejected as infeasible.

C. Management

The Loan Originator must review the management profile and certification to make sure that the proposed management company has experience in special senior housing, such as congregate housing. If the proposed company does not, the Loan Originator must require that the loan applicant obtain additional management expertise, which may be in the form of a consultant, to advise in the management.

12.13 DESIGN CONSIDERATIONS

The Loan Originator must review project plans to make sure that the design criteria identified in paragraph 12.7 above have been met. The layout of the structure should be amenable to the tenants. For example, the common dining facility is easily accessible by a covered walkway. In addition, the design elements should have a positive effect on project management and ongoing operations. For example, service areas are well out of the way of public areas where tenants might gather. Projects proposed by applicants who have engaged the services of an architect experienced in similar type project design will generally meet these design standards. The Loan Originator must also send the plans to the State Architect who will review them to determine whether they meet program requirements.

SECTION 2: GROUP HOMES [7 CFR 3560.69]

12.14 OVERVIEW

Group homes provide shared living space within a rental project for individuals who are capable of caring for themselves in the basic functions of everyday living, but who otherwise need the direction or assistance of a trained resident assistant. Group homes may be designed for individuals who are elderly or have disabilities, and may limit occupancy to certain groups of people. Although a resident assistant may provide limited medical services such as assistance to tenants with medication, group homes are not intended as health care facilities.

This section discusses the procedures and requirements of loan origination which are different for group homes from those of other multi-family housing loans.

12.15 PROJECT ELIGIBILITY

A. Tenancy

A group home may limit occupancy to a specific group of tenants. For example, a group home may limit occupancy to eligible elderly tenants, developmentally disabled people, or mentally impaired tenants.

Prospective tenants must be evaluated to determine if they meet the essential eligibility requirements to reside in a group home. Loan applicants are guided in this by **Attachment 12-A**, Management of Congregate Housing and Group Homes.

A legal guardian (an individual) may execute a lease agreement on behalf of a tenant in a group home when that tenant does not possess the legal capacity to enter into a legal contract with the project owner.

B. Applicable Laws

Group homes must meet all applicable federal, State and local laws, statutes, code and/or ordinances pertaining to these types of housing and the services provided.

C. Association with Another Organization

A group home may be associated with another organization, such as a workshop for the developmentally disabled. However, the group home must be a separate entity and able to function without being dependent on another organization.

12.16 SUPPORT SERVICES

Loan applicants must show in the initial application that adequate support services that are needed by tenants will be available on a continual, long-range basis. Support services can be provided by the project or by a state or local public agency. A nonprofit organization with an established ongoing service program also may be deemed capable of providing support services.

Loan applicants for a group home project must provide a service plan which describes how affordable services will be made available to potential residents to assist them in living independently. The plan must address the long-term availability of this assistance from specific service providers and must address how the following services will be provided or made available:

- Access to a common kitchen in which to prepare meals;
- Access to transportation;
- Nearby recreational and social activities which may be coordinated by the resident assistant, if applicable; and
- Access to medical services as necessary.

A narrative statement from any local, State, or federal government agencies that are expected to provide support for the current and long-range service needs for the tenants of the facilities is also required.

12.17 DESIGN REQUIREMENTS

A group home is generally designed as a single household dwelling; however, it can also be a small multi-unit structure. Specific design criteria which must be met are provided in Chapter 1 of Guide 2 of RD Instruction 1924-A, Planning and Performing Construction and Other Development. In addition to these requirements, group homes must meet the following criteria:

- Interior spaces and finish materials must be residential in character.
- Appropriate common areas and facilities must be included to encourage participation by the tenants under the direction of a staff person in sharing the meal preparation, housekeeping, and social and recreational activities within the home.
- Facilities and services to address potential decreases in tenants' physical and mental capabilities must be considered in the design.
- Emergency lighting must be provided in every corridor, stairway and other means of egress.
- Entrances to all living units must be on a route accessible to persons with disabilities.
- Meet UFAS, the Americans with Disabilities Accessibility Guidelines, the Fair Housing Act Accessibility Guidelines, and any State or local requirements.

12.18 RENTS AND RENTAL ASSISTANCE

Instructions on how to determine the per unit rental rates for group homes are stipulated in **Attachment 12-A**, Management of Congregate Housing and Group Homes.

A unit in a group home consists of a space occupied by a specific tenant household, which may be an apartment unit, a bedroom, or a part of a bedroom. Section 3560.69(g) allows Agency rental assistance to be made available to group home tenants sharing units. However, in a shared bedroom situation, rental assistance may be made available to each tenant only so long as the total rent for the unit does not exceed what other rents are in the area for conventional and comparable shared bedrooms.

12.19 APPLICATION REQUIREMENTS AND PROCESSING

Applicants for a loan to complete a group home must submit the same documentation that is required for multi-family housing projects as specified in Chapters 4, 5, and 6, as well as a service plan as described in paragraph 12.16 and a narrative statement from any local, State or federal government agency that is expected to provide support for the current and long-range service needs of the tenants.

Group home loan applications are processed through the initial application stage by the Loan Originator. If the loan application is not eligible or feasible, the applicant will be rejected in accordance with the procedures outlined in Chapter 5.

Any initial application which the Loan Originator feels should move on to the final application stage must be submitted with the State Director's recommendation to the National Office for their review and concurrence. Once the National Office concurs, loan applicants are advised that their loan request has been selected for further processing and processing of the loan application is completed at the state level. If the loan amount exceeds the State Director's approval authority, National Office concurrence of the final application is required before loan approval.

12.20 UNDERWRITING CONSIDERATIONS

Loans for group homes must be underwritten as are any other loans and in accordance with the standards established by Chapters 5 and 6.

As with congregate housing, the Loan Originator must review all loan documents, giving special attention to whether the loan applicant has a market for the types of tenants and services that will be provided. See Section 3 on market feasibility documentation requirements.

Specifically, the Loan Originator must determine that:

- The loan applicant has submitted all of the required information at each stage of the origination process, including that which is required of all multi-family loan requests and the additional requirements described in paragraph 12.19 (the services plan and narrative statement from a government services provider).
- If the group home is affiliated with another organization, the group home can function independently of the organization.
- A market exists for the type of services offered.

- If occupancy is restricted to a certain group of tenants, the data show that there is a need and demand by the target households for housing with the proposed services.
- Management is experienced in group homes or will hire experienced assistance.
- The design of the group home meets the criteria identified in paragraph 12.17.

SECTION 3: MARKET FEASIBILITY CONSIDERATIONS FOR CONGREGATE HOUSING AND GROUP HOMES

12.21 ADDITIONAL MARKET FEASIBILITY DOCUMENTATION REQUIREMENTS [7 CFR 3560.69(f)]

Market feasibility documentation for congregate housing and group homes must address the need for services that are to be offered to a specific group of tenants. In addition to the market feasibility documentation outlined in Chapter 5, the following requirements must be met:

- The loan applicant's market feasibility documentation must address the need for housing with services and specifically, the need for the services that are proposed to be offered. Local agencies on aging and other groups familiar with the elderly can be a valuable source of information on the needs and wants of elderly people in the market area. Loan applicants can conduct a mail survey to age- and income-qualified elderly people if information is not available from other sources.
- An expanded market area may be considered only when the additional communities are part of the trade area and are so rural that they cannot support development of a congregate or group home facility. The facility itself must be located in a designated place. If an expanded market area is proposed, the market feasibility documentation must establish conclusively that the community will be able to draw enough tenants from the market area to ensure feasibility of the project. The market feasibility documentation must clearly identify the expanded area and contain separate information on the additional communities. If used, mail-out surveys must clearly address the probability of respondents relocating to the proposed site.
- Market feasibility documentation should include income information from the local social security office since many elderly people are dependent on social security and/or supplemental security income. This information will assist in determining if proposed tenants would have sufficient income to afford the services provided by the project.
- The market feasibility documentation must contain demographic information particular to those over the age of 62, those over 70, and those over 85 years.
- Market feasibility documentation must discuss the availability of alternative service providers.
- Continued use of meal service is important to the congregate services budget.
 Therefore, market feasibility documentation must address the market demand for meal services

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SECTION 4: MANUFACTURED HOUSING [7 CFR 3560.70]

12.22 OVERVIEW

The Agency has authority to make loans for multi-family housing projects which consist of manufactured housing units. Manufactured housing is designed and constructed for permanent occupancy by a single family and contains permanent cooking, eating, sleeping, and sanitary facilities within the structure. It is transportable in one or more sections and when erected on site is four hundred or more square feet.

Manufactured housing loans compete for funding with other multi-family housing projects and are underwritten at the State level. Final approval of such loans must come from the National Office.

Processing and underwriting considerations are generally the same for manufactured housing projects as they are for other multi-family housing projects. However, because the housing is constructed off-site, there are some additional design and warranty requirements placed on the loan applicant which the Loan Originator must make sure are met.

12.23 ELIGIBILITY REQUIREMENTS

A. Applicant Eligibility

In addition to meeting the eligibility criteria of 7 CFR 3560.55, and described in Chapter 4, the loan applicant must be the first owner purchasing the manufactured homes for purposes other than resale.

B. Project Eligibility

In addition to meeting all of the construction, design, and warranty requirements specified in paragraphs 12.24 and 12.25, a manufactured home project must meet the following requirements:

- Each manufactured home unit must not have been previously occupied as a residence or for any other purpose and be less than one year old from date of manufacture.
- A project is not eligible if the purpose of the loan is for refinancing, except as it relates to taking out a construction loan.
- A loan may be made to rehabilitate manufactured home units of an existing project only if the units to be rehabilitated are currently financed by the Agency under the multi-family housing program. Rehabilitation of manufactured home units must only be undertaken by individuals who have experience with rehabilitating manufactured housing since the structural integrity of the unit may be undermined by an inexperienced individual.

 A housing proposal may include the purchase of the real property of existing manufactured housing which will be redeveloped with the placement of new manufactured homes.

12.24 DESIGN REQUIREMENTS

A. Construction Standards

Manufactured housing projects, including related facilities constructed or erected on the security property, must conform to the development, installation, and set-up requirements of Exhibit J of RD Instruction 1924-A, Planning and Performing Construction and Other Development.

The manufactured home, when placed on site, will have floor space area of not less than 400 square feet, and a width of 12 feet or more for single wide and 20 feet or more for a double wide unit. The unit must:

- Be placed on a site-built permanent foundation that meets or exceeds applicable requirements of the Agency-adopted standards which are identified in Exhibit J to RD Instruction 1924-A, Planning and Performing Construction and Other Development or other building codes approved by the Agency.
- Be permanently attached to the foundation by anchoring devices adequate to resist all loads identified in RD Instruction 1924-A, Planning and Performing Construction and Other Development or other building codes adopted by the Agency.
- Be constructed in compliance with Agency thermal performance construction standards specified in Paragraph G, Exhibit D to RD Instruction 1924-A, Planning and Performing Construction and Other Development and any applicable Administrative Notices.
- Be constructed in compliance with applicable standards and manuals adopted by the Agency as evidenced in Exhibit J of RD Instruction 1924-A, Planning and Performing Construction and Other Development. All units must conform to the HUD "Federal Manufactured Home Construction and Safety Standards," and be identified by an affixed certification label according to Exhibit J of RD Instruction 1924-A.

Manufactured home projects must be designed to provide for a desirable residential environment. Innovative and imaginative design is encouraged. Highly stylized patterns and monotony must be avoided. All property improvements will relate to the individual characteristics of the land. The project, including structures, streets, and all site improvements, should be harmoniously, efficiently, and conveniently arranged in relation to the topography and the shape of the property.

Manufactured home projects designed for families must consider adequate recreational space to accommodate children. In addition, the units themselves should be able to handle normal wear and tear of family living.

12.25 SPECIAL WARRANTY REQUIREMENTS

The seller of the manufactured homes must deliver to the borrower the manufacturer's warranty. The warranty must identify the units by serial number.

The general contractor or dealer-contractor, as applicable, must provide a warranty in accordance with RD Instruction 1924-A, Planning and Performing Construction and Other Development. To be acceptable, the warranty must contain provisions establishing that:

- The manufactured home, foundation, positioning, anchoring to permanent foundations, and all contracted improvements are constructed in substantial conformity with applicable approved plans and specifications;
- The manufactured home sustained no hidden damage during transportation and, for double-wide units, that the sections were properly joined and sealed; and
- The manufacturer's warranty is in addition to, and not in derogation of, all other warranties, rights and remedies that the borrower may have.

12.26 RATES AND TERMS

The amortization period and term of each loan will not exceed the lesser of the economic life of the security, taking into account probable depreciation, or 30 years. The loan appraisal will provide an economic life estimate.

12.27 LOAN PROCESSING AND UNDERWRITING

Loans for manufactured housing are processed and underwritten in accordance with the guidance established in Chapters 4 through 6. In addition, the Loan Originator must do the following:

- Establish that the project meets the additional eligibility requirements of paragraph 12.23. The Loan Originator can verify the age of the manufactured home unit by looking at purchase agreements or bills of sale.
- Work with the State Architect to make sure that project plans meet the construction and design requirements established in paragraph 12.24 above.
- Verify that the required warranties identified in paragraph 12.25 are available at the final application stage.

If the project cannot meet these or any other program requirements, the loan application must not be approved.

12.28 LOAN CLOSING

Loans for manufactured housing projects are closed in accordance with the guidance provided by Chapter 9. In addition, the following requirements must be met at loan closing:

- A mortgage or deed of trust must be taken on the entire property purchased or improved with the loan.
- The encumbered property must be covered under a standard real estate title insurance policy or attorney's title opinion that identifies the project (including the manufactured homes) as real property and insures or indemnifies against any loss if the manufactured home is determined not to be part of the real property.
- The property must be taxed as real estate by the jurisdiction where the project is located, if such taxation is permitted under applicable law when the loan is closed.

SECTION 5: RURAL COOPERATIVE HOUSING

12.29 OVERVIEW

Rural cooperative housing is multi-family housing owned, operated, and managed by a consumer cooperative. The consumer cooperative consists of eligible members who operate the housing at actual costs. Any income received by the consumer cooperative in excess of operating costs and expenses are assigned to members' patronage capital accounts.

Cooperative members do not earn equity in their homes; however, they are entitled to the funds which accumulate in their patronage capital accounts and this is referred to as limited equity. Paragraph 12.33 E provides additional details on patronage capital accounts.

Cooperative housing projects do not compete for funding with other multi-family housing projects. Rather, they are funded from funds held at the National Office. Underwriting of cooperative housing is a joint effort between the State Office and the National Office. The State Office reviews the loan application through the initial application stage and if the project appears eligible and feasible, the State Office submits the case file to the National Office. If the National Office concurs, the applicant is invited to submit a final application. The National Office makes the final decision to approve or reject the loan.

This section discusses the requirements regarding the development and operation of cooperative housing that are addressed during the loan origination procedures are much the same as for those of other multi-family housing projects although there are some differences due to the nature of cooperative housing.

12.30 ELIGIBILITY AND ORGANIZATIONAL REQUIREMENTS

The consumer cooperative is the loan applicant. The consumer cooperative includes a Board of Directors elected from its members. All of the members, including the Board of Directors, must meet the organizational and eligibility requirements outlined in Exhibit 12-2.

The eligibility and tenancy rules for cooperative housing projects are different than those for other Agency-financed multi-family housing, but are similar to those for the Guaranteed Rural Rental Housing Program. Any person who is admitted to rural cooperative housing as an eligible member may not subsequently be deprived of membership or tenancy if the person no longer meets the original program income eligibility requirements.

Exhibit 12-2
Eligibility and Organizational Requirements

Consumer Cooperative (Loan Applicant)	Members of the Cooperative	Board of Directors
 Must be organized under the cooperative laws of a State or a federally recognized Indian tribe. Consists of members from whom are elected a Board of Directors. Must own and operate the housing on a cooperative basis solely for the benefit of the members. Must operate at costs. Must restrict membership in the housing to eligible persons and, to any extent the cooperative and the Agency permit, to others in special circumstances, such as when prolonged vacancies occur. Must have no less than five directors, or whatever is allowable under State law. 	 Must reside in the cooperative housing. Must have very-low, low- or moderate-incomes except that any member who is admitted as an eligible member of the cooperative may not subsequently be deprived of his/her membership or tenancy by reason of no longer meeting the income eligibility requirements. Must deposit a membership fee. This fee will be retained by the cooperative for as long as the person remains a member. The fee will be refunded to the person when membership is terminated. Must execute documents committing themselves to upholding the cooperative concept. 	 The composition of the board of directors will be drawn from the cooperative membership, initially by appointment and later by election from the general membership. The board must be composed of at least five members. A membership list showing the names and addresses of each member must be maintained by the secretary of the cooperative. The board of directors, with assistance from the adviser to the board, will devise the rules and regulations under which the cooperative will operate. Additionally, the board will be responsible for management of the cooperative.

12.31 MARKET FEASIBILITY

Market feasibility is evidenced by the names and addresses of prospective members who have definitely affirmed their intention of becoming cooperative members in the proposed project. In the event some persons cannot be accepted for membership for financial or other reasons, the cooperative should obtain more names than the number of proposed units in order to assure adequate feasibility coverage. The Cooperative Housing Survey Form found as **Attachment 12-D** may be used for this purpose. A professional market study is not required.

12.32 APPLICATION REQUIREMENTS

Loan applicants for cooperative housing projects must submit the following items in addition to those required for other multi-family housing projects as described in Chapters 4, 5, and 6:

• At the NOFA stage:

♦ The names and addresses of persons who have expressed an interest in becoming members of the cooperative. Signature and date evidencing this interest from each person will be obtained to fully document the need for the cooperative housing.

• At the initial application stage:

- ♦ A budget which provides for accumulating a management reserve at a rate commensurate with normal management fees appropriate to the area. The reserve should be shown under the management column.
- ♦ Certification of interest from prospective members including a statement that the prospective member understands the cooperative type of organization and the time and effort each member must spend in its operation and maintenance.
- ♦ A statement from each prospective member of monthly income and expenses showing the repayment of debts and whether those payments are current. The statement must indicate that the person will have the financial ability to meet the monthly occupancy rate requirement, while still meeting other monetary obligations. Form RD 1944-38, Application for Cooperative Housing Membership, will be used for this purpose.

• At the final application stage:

- ♦ An Affirmative Fair Housing Marketing Plan for all cooperative projects containing over four units.
- A management statement that should the cooperative be unable, after a 12-month period, to show the ability to manage itself without professional assistance, professional management services will be obtained and the amount to be accumulated in the management reserve account will be used to pay for this service.
- ♦ An executed copy of a limited equity agreement which substantially conforms to **Attachment 12-E**, Limited Equity Agreement.
- ♦ A completed subscription agreement which substantially conforms to **Attachment 12-I**, Subscription Agreement.

12.33 MANAGEMENT REQUIREMENTS

When underwriting loan applications for cooperative housing, Loan Originators must give consideration to the special management requirements of a cooperative housing structure. The Board of Directors of the cooperative has ultimate responsibility for management of the housing.

A. Cooperative Board of Directors

The Board will be composed of members of the cooperative with the same interests and concerns as the general membership. The Board will be responsible for establishing the policies and procedures that will govern the operation of the cooperative and enforcing those policies and procedures. For instance, instituting increases in the member occupancy rates, or terminating a member's right to cooperative ownership because of serious repeated violations of cooperative rules and regulations will be the types of actions which are taken by the board. The members of the Board will also be affected by these decisions since they must adhere to the same rules and regulations as the rest of the cooperative community.

The Board of Directors must provide to all prospective members a description of the cooperative and its financial obligations, and a description of limited equity and what it means to the cooperative members. **Attachment 12-E**, Limited Equity Agreement, will be used for this purpose. Prospective cooperative members may also be provided with "A Guide to Cooperative Housing." This informative pamphlet is available from the Finance Office by requesting Program Aid No. 1483.

B. Adviser to the Board

A resident of the community who is not a member of the cooperative will serve as an adviser to the Board during the period of formation and until the Board of Directors has effectively demonstrated its ability to manage the cooperative. At that time, the adviser will maintain close contact with the cooperative and provide advice and assistance as needed. The adviser may also be an organization; however, one specific individual will have sole contact with the Board to eliminate confusion and to prevent one person from countermanding another's instructions. The adviser will closely monitor the cooperative for at least two years after it becomes its own manager. This time may vary, depending on the circumstances.

The adviser must be very carefully selected to ensure that adequate guidance is given to the Board. The adviser must meet specific criteria to ensure that the board receives sound advice and direction. The Qualifications for an Adviser to the Board, Relationship of Adviser to Members, and Adviser Responsibilities, found at **Attachments F, G, and H**, must be used in evaluating potential advisers. While it may not be possible to find one individual or individuals who can meet all the requirements outlined, the criteria should be used to select the best candidate. The Agency will provide counsel to the cooperative during the interview period and must approve the selection of the adviser.

The adviser may require compensation for services rendered; however, the amount paid should not severely limit the amount of patronage capital accruing to the members. Compensation paid to the adviser will be shared by members through the deduction of equal amounts from their management reserve payments.

C. Developing Committees

The success of cooperative housing projects will depend on how well the members are able to manage the cooperative themselves with assistance from the adviser to the board. The cooperative must first develop and designate the areas of responsibilities to be delegated to committees, a list of the committees, and the functions of the committees. A copy of this information will be provided to each prospective member.

It will be necessary for the proposed Board of Directors to become familiar with how a cooperative is supposed to work before it is able to successfully assume the responsibilities of running the cooperative. This can best be achieved by participating in programs designed for the express purpose of educating potential board members. The prospective board members will be expected to take part in such a training program.

Participation on committees by members will be on a voluntary basis. However, if it appears a committee does not have sufficient numbers for it to adequately operate, then additional members will be expected to volunteer their time and talents. Thus, participation on committees is voluntary up to a point. If a member has experience in a particular area, that member should be encouraged to join the committee which will benefit from his/her experience. The cooperative will need a total commitment from the membership in order to assure success of self-management. Examples of the types of committees which may be considered are:

- Maintenance;
- Groundskeeping;
- Communications;
- Budget and finance;
- Rules;
- Recreation; and
- Home service.

If the cooperative is not successful in managing itself, the cooperative must hire professional management.

D. Acceptable Forms of Management

There are three forms of acceptable management options for cooperative housing: self-management; partial self-management; and contract management.

1. Self-Management

The primary management objective for many housing cooperatives is to self manage. To achieve this goal, education and training efforts should be an on-going part of their early years of the project operation. Accordingly, modest education costs will be permitted in the budget as a subheading under management expenses. Education must be relevant to cooperatives and conducted by a professional person with experience in cooperatives. In the beginning, it may be necessary to obtain some outside services, such as a bookkeeper. If so, then partial self-management (see below) can be used initially. It will be necessary for a qualified nonmember (individual or organization) to advise the board during the formative years of the cooperative. **Attachment 12-F**, Qualifications for an Adviser to the Board and **Attachment 12-H**, Adviser Responsibilities, will be used as a guide for determining the qualifications of the adviser.

2. Partial Self-Management

Certain management and supervisory services may be contracted from a technical service organization, housing authority, or management firm, etc. If this additional assistance does not enable the cooperative to manage itself, then the ultimate solution will have to be contract management.

3. Contract Management

Professional services may be contracted for the day-to-day supervision of cooperative operations. The Board of Directors could develop the policies which would then be administered by the management agent. The Agency will assist the adviser to the board in determining if and when professional management will be hired in lieu of self-management. In the event the adviser and the Agency are unable to reach an agreement regarding the hiring of professional management, the ultimate decision will rest with the Agency.

E. Management Reserves and Patronage Accounts

1. Paying for Management

A set rate for professional management will be assessed each month as part of the occupancy rate and will be maintained in a separate reserve account. If the cooperative is successful at managing its own affairs during the year, the amount accumulated in the reserve will at the end of the year be transferred to the patronage account and credited equally to each member's account. This same procedure will be followed each year, allowing a buildup of patronage capital. For budgeting purposes, contributions to the management reserve account will be tracked separately for each member. This will facilitate distribution of patronage capital should a member leave before the end of the year.

If professional management is hired by the cooperative to correct deficiencies that have arisen from poor self-management, the deposits to the management account will then be used to pay for professional management and the amount being accrued to the members' patronage capital account will be suspended. If the amount being accumulated for management is not sufficient to cover the cost of contract management, occupancy charges will be increased to cover the expense of management. When the cooperative begins to again manage itself, the assessment for the management reserve will resume as previously stated.

Agency rental assistance proceeds are not to be used to make the member's contribution to the management reserve account. Therefore, the member must make this payment from the member's own resources. If it becomes necessary to hire full-time professional management, then the management fee will be considered part of the shelter cost and thus eligible for Agency rental assistance.

2. Patronage Capital Accounts

Any income remaining at the end of the year, including unused management reserves, will be assigned as patronage capital. The cooperative must keep records to track each member's contribution to the management reserve account so that the cooperative will know how much patronage capital the member is entitled to should membership be terminated prior to the end of the fiscal year. Assignment from the patronage capital account and from the management reserve must be accomplished in accordance with the Internal Revenue Service ruling concerning patronage distribution. Inflation equity which accrues on cooperative property is not considered part of the members' limited equity and will not be taken from the project when a member vacates the project.

F. Occupancy Agreement

All members of the cooperative must sign an occupancy agreement, which is a contract setting forth the rights and obligations of the cooperative member and the cooperative, including the amount of the monthly occupancy charge and the other terms under which the member will occupy the housing. An example of such an agreement is provided in **Attachment 12-C**, Occupancy Agreement.

12.34 COOPERATIVE MEMBERSHIP FEE

Cooperatives require a membership fee. The membership fee is established by the board of directors and must be equal to one month's occupancy charge. Once the fee has been established, that amount is uniformly applied to all members. Members unable to pay a membership fee in full should be permitted to make monthly payments without interest, until the membership fee is paid; however, a down payment of at least \$25 should be required at occupancy. The period of payment on the membership fee should not exceed 12 months.

12.35 LOAN PROCESSING

Applications for cooperative housing will be solicited through a NOFA, but considered for funding from an Administrative reserve.

Applications for cooperative housing loans will be processed in the order in which a complete project proposal is received. When a request for a cooperative housing loan is

received, the State Director will contact the National Office to determine if sufficient funds are available to make the loan. If so, and if the project proposal appears preliminarily eligible and feasible, the Loan Originator will invite the applicant to submit an initial application in accordance with Chapter 5 and including the additional information outlined in paragraph 12.32. If funds are not available in the current funding cycle, the initial application will be considered for funding in the next funding cycle.

The Loan Originator will review all initial applications for cooperative housing loans for eligibility and feasibility. In cases where the proposal is not eligible or feasible, the proposal will be rejected and appeal rights provided in accordance with RD Instruction 1900-B, Adverse Decisions and Administrative Appeals. Proposals which appear eligible and feasible will be forwarded to the National Office for review and authorization.

If authorized by the National Office, the State Director will notify the applicant that the application appears eligible and feasible. The Loan Originator will then invite the applicant to submit a final application. Loan Originators will use the procedures presented in Chapter 6 to process final applications and obtain loan approval.

12.36 LOAN-CLOSING AND POST-CLOSING ACTIVITIES

Loan Originators will follow the procedures described in Chapters 9 and 10 to close the loan, monitor construction, and oversee initial project occupancy.

ATTACHMENT 12-A MANAGEMENT OF CONGREGATE HOUSING AND GROUP HOMES

ATTACHMENT 12-B

SUPPORT SERVICES FOR CONGREGATE HOUSING AND GROUP HOMES

ATTACHMENT 12-C OCCUPANCY AGREEMENT

ATTACHMENT 12-D COOPERATIVE HOUSING SURVEY

ATTACHMENT 12-E LIMITED EQUITY AGREEMENT

ATTACHMENT 12-F QUALIFICATIONS FOR AN ADVISER TO THE BOARD

ATTACHMENT 12-G RELATIONSHIP OF ADVISER TO MEMBERS

ATTACHMENT 12-H ADVISER RESPONSIBILITIES

ATTACHMENT 12-I SUBSCRIPTION AGREEMENT